same series, are indicative of the ever recurring decisions based upon the feudal rules of law commented on in 19 MICH. L. REV. 426. The first of the cases abstracted above was decided on the basis of technical rules of ancient origin as to the operation of the Statute of Uses; while the third is illustrative of the lengths a modern court will go in declaring medieval rules inapplicable to the facts at hand, in spite of authority to the contrary, where to apply the rule would defeat the intentions of the testator. The canons of construction used and the fine distinctions drawn, whereby the words "heirs of her body lawfully begotten" were constructed as "children," would probably have appalled the judges who decided such cases as *Jesson* v. *Wright*, 2 Bligh. 1, and *Van Grutten* v. *Foxwell*, [1897] App. Cas. 658. In *George* v. *Morgan*, 19 Pa. 95, the court held that the Rule in Shelley's Case did apply to limitations exactly similar to the estates limited in the principal case. For a collection of the authorities, see 29 L. R. A. (N. S.) 963.

TRIALS—MISCONDUCT OF JURY—COMMUNICATION AS BASIS OF NEW TRIAL. —A conviction for murder had been affirmed in the supreme court. An extraordinary motion for new trial was made by the defendant because it was found that the jury, which then stood ten for guilty and two for guilty with recommendation for mercy, had requested the deputy in charge to inform the judge that they could not agree and wished to go home. He did so, and told them that the judge would not release them, adding that "the judge would keep them locked up until they did make a verdict." In a few minutes the jury brought in a verdict of guilty. All save three of the jurors made affidavits that they were not influenced by the deputy's remark, among them the two who had voted for mercy. *Held*, motion sustained and judgment reversed. *Harris* v. *State* (Ga., 1920), 104 S. E. 902.

This decision represents the *reductio ad absurdum* of maintenance of the purity of jury trials. If an officer of the court makes statements calculated to influence the verdict of the jury, it is ground for a new trial. *State* v. *LaGrange*, 99 Iowa 10. But if it does not appear that conduct had the effect of forcing or influencing the verdict, there is no reason for granting a new trial. In *Pope* v. *State*, 36 Miss. 121, the bailiff, in jest, told the jury that unless they decided one way or another they would have nothing to eat or drink. It was held that, although the remark was illegal, the only motive was for concurrence, and could not affect one party or the other; that it was not calculated to affect the deliberations of the jury. See civil cases: *Leach* v. *Wilbur*, 9 Allen 212; *Wiggins* v. *Downer*, 67 How. Pr. 65. In *State* v. *Cady*, 46 La. Ann. 1346, the officer in charge of the jury said that they had better go to work, for if they didn't decide the case the judge would lock them up until Saturday, and it was held that this would not influence reasonable men, and was not of such a nature that injury could fairly be presumed. A similar remark was made in *Alexander* v. *State*, 22 So. 871 (Miss.), where it was said that the integrity and independence of the jury could not be thought to be affected by the servant's misconduct. *Obear* v. *Gray*, 68 Ga. 182, and *Smith* v. *State*, 122 Ga. 154, cited by the court in the principal case

are not authority for the position of the court. In the first case there was some evidence that the jury, worn out, has "fixed up" a verdict; also, they had been allowed to separate and go out to a public resort. In the latter case the bailiff had taken the jury out for a view of the *locus*, unknown to counsel in the case. In *Renfroe* v. *State*, 13 Ga. App. 655, cited by the court, after the jury had been out eighteen hours the bailiff said that they should not make a mistrial, as the judge was conscientiously opposed to them. The court seems to lay down the rule that the plaintiff in error should show injury, unless misconduct of the jury is shown or it appears they have been unduly interfered with, when there is a presumption of injury; but this presumption may be affirmatively rebutted. A new trial was granted. It is submitted that the principal case goes so far beyond any necessity of preserving the purity of jury trial as actually to do injustice. As Dean Pound has said, "The individual gets so much fair play that the public gets very little." Compare with the principal case the case of *People* v. *Pyle*, 185 Pac. 1019 (Cal., 1919), in which a bystander had said, in the presence of jurors, to defendant's attorney, that he would "fix" the defendant, who had "beat" him out of some money. It was held that in the absence of a showing that the verdict had been influenced it was no abuse of discretion to deny a new trial, "unless we go out into the thin air of metaphysics for inspiration and wholly disregard the ample evidence, independently of the alleged statements, to sustain the verdict of the jury and arbitrarily hold that such alleged statements probably influenced the verdict, the defendant's contention can find no support." See *State* v. *Harper*, 101 N. C. 761, 9 Am St. Rep. 46; *State* v. *Burton*, 172 N. C. 939.

TRUSTS—RESULTING TRUST ON HUSBAND'S PURCHASE OF LAND AND CONVEYANCE TO WIFE NOT DESTROYED BY HER VERBAL AGREEMENT TO HOLD TITLE FOR HIS USE.—The defendant purchased land with his own funds and had it conveyed to his wife on her parol promise to hold the title for his use and make such conveyances as he should desire. Upon separation from her husband twenty years later the wife brought ejectment for the land. *Held*, the presumption of a gift to the wife being overcome by the evidence of her oral agreement, there is a resulting trust in favor of the husband. *Jackson* v. *Jackson* (Ga., 1920), 104 S. E. 236.

Since the so-called resulting trust is based upon an intention implied in law, it would seem illogical to decree a resulting trust in the face of an actual intention expressed in an oral agreement. An artificial presumption of intention is inconsistent with an actual intention. The trust being an oral one and unenforceable because of the Statute of Frauds, relief should be sought on the theory of a constructive trust. This is the view of Dean Ames in 20 HARV. L. REV. 549, and Professor Costigan in 27 HARV. L. REV. 437. It is noteworthy that the court in the instant case recognized the logic of this position, though it felt constrained to adhere to the prevailing view that the trust is still resulting if the oral agreement is not different from that which would be implied if the grantee were legally a stranger. *Long* v.